

tries who have been licensed in California during these years are so small as to make them, as was stated above, negligible.

The sixty physicians licensed from Germany, even if all of them are considered as refugees, constitute less than two-thirds of one per cent of the 9,785 physicians registered in the state in 1938.

Of the sixty physicians registered from Germany, the distribution is: Los Angeles 17, San Francisco 25, other localities 17, unknown 1.

Very truly yours,

MEDICAL REFUGEE CONTROL COMMITTEE
OF THE WESTERN STATES.

SOL HYMAN, M.D., *Executive Secretary*.

Subject: Proposed legislation on narcotic enforcement.

(COPY)

DIVISION OF NARCOTIC ENFORCEMENT

San Francisco, March 18, 1939.

California Medical Association

450 Sutter Street

San Francisco, California

Gentlemen:

Following a survey that was made by the State Narcotic Enforcement Division of conditions surrounding the dispensing of narcotics by members of your profession, we found that there were numerous cases of forged prescriptions where the name of the prescribing physician had been used fraudulently on blanks provided for him by pharmacies.

Particularly in the southern part of the state, where these prescriptions were presented to chain-store druggists, no effort was made, on the part of the dispensing pharmacist, to check the authenticity of the prescription.

Naturally, I know, that if every narcotic prescription was to be checked by the pharmacist before dispensing the same, a great inconvenience would be caused to the patient and a great annoyance would be occasioned by the physicians; so, in view of these facts as were disclosed, it became imperative that something be done to stop this imposition by narcotic addicts and peddlers on innocent physicians and pharmacists.

With this in mind, I talked with Edward F. O'Day, Assemblyman from the Twenty-fourth District, and, with the coöperation of Dr. Charles B. Pinkham, Secretary of the Board of Medical Examiners, and Mr. John Ramsay, President of the Board of Pharmacy, a system was devised by which this evil could be corrected.

PROPOSED LEGISLATION

We propose that the State Narcotic Enforcement Division provide books to all persons legally entitled to prescribe narcotic drugs—the same to contain one hundred prescriptions, in triplicate form—the original of which would bear the official seal of the State of California watermarked on the back thereof. The prescribing physician would make all three copies at one time; the original and duplicate would be given to the patient, to be taken to the pharmacy to be filled, and the triplicate would be retained in the book and would be the permanent record of the prescribing physician. The pharmacist would note on the original the date on which the prescription was filled and retain this copy for his permanent record; the duplicate, on which he would note the same facts, would be sent, at the end of thirty days, to the State Narcotic Enforcement Division, at San Francisco.

In order to avoid any embarrassment that might be caused to a patient because of the fact that these forms might indicate to the patient that narcotics were being prescribed, it was decided that no mention would be made on the form relative to the nature of the prescription, but would be undisclosed in a phrase of this type: "This pre-

scription is issued pursuant to Chapter ——— and ——— of the Statutes of 1939, and across the face of it, in large print, would be the words "non repetatur." We felt that this would remove any embarrassment between the physician and patient.

The book of prescriptions which will be supplied by this department, free of charge, will be of a convenient size that will readily fit into the pocket of the doctor.

In the case of an epidemic, or sudden or unforeseen accident or calamity, a prescription may be written upon a form other than the official prescription form.

Violations of the provisions of this Act are punishable as a misdemeanor.

The great amount of good to be derived from this system is that the State Narcotic Enforcement Division will, every thirty days, have a complete report of the narcotics dispensed, and can readily remedy any infractions of the medical code by cautioning the violator, thus preventing serious consequences to the violator. This would prevent the necessity of criminal action in most cases and its attendant notoriety.

I firmly believe that our State Division was never intended to police the medical, dental, and other professions concerned with the dispensing of drugs, and it is for this reason that, in sponsoring this act, the coöperation of the Medical Association, the California Dental Association, the State Board of Medical Examiners, the State Board of Osteopathy, the State Board of Pharmacy, and the State Society of Veterinarians have been asked to coöperate in supporting this greatly needed legislation.

In supporting this bill your Association would be doing a great public service in that it would permit our Division, which is seriously undermanned at the present time, to devote its entire time to the illicit narcotic traffic.

156 State Building.

PAUL E. MADDEN,

Chief, Division of Narcotic Enforcement.

Subject: Constitutional limitations upon power of legislature to restrict or abolish State Board of Public Health.

(COPY)

San Francisco, March 20, 1939.

J. B. Harris, M.D.

Medico-Dental Building

Sacramento, California

Dear Doctor:

At the recent meeting of the Committee on Public Policy and Legislation, we were requested to examine the California Constitution and applicable judicial decisions in order to determine whether or not it is within the power of the legislature either to abolish or greatly to restrict the powers of the State Board of Public Health.

It is our understanding that there are several bills now pending before the legislature which, if enacted, would either abolish the State Board of Public Health or greatly restrict its powers and duties with respect to public health.

Article XX, Section 14, of the California Constitution provides that: "The legislature shall provide, by law, for the maintenance and efficiency of a State Board of Health."

Article I, Section 22, of the Constitution states that: "The provisions of this constitution are mandatory and prohibitory, unless by express words they are declared to be otherwise."

The foregoing section has been held to mean that the word "shall" in any provision of the constitution renders that provision mandatory. *Chenoweth vs. Chambers*, 33 Cal. App. 104.

It has further been held by the California Supreme Court that the provisions of the constitution which are mandatory are binding upon every department of the state government—legislative, executive, and judicial. (*People vs. California Fish Co.*, 166 Cal. 576.)